

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MATTHEW LEAVITT,

Plaintiff,

vs.

SUMMIT RECEIVABLES,

Defendant.

8:17CV334

MEMORANDUM AND ORDER

Plaintiff's complaint was served on Defendant on September 18, 2017. (Filing No. 7). As of November 8, 2017, Defendant had neither answered nor otherwise responded to the Complaint. A default was entered on November 9, 2017. (Filing No. 13). Defendant did not respond.

A motion for default judgment was filed on February 2, 2018. (Filing No. 17). Defendant did not respond. Judgment was entered against Defendant on April 5, 2018. (Filing No. 19).

Plaintiff moved for post-judgment discovery on May 25, 2018. (Filing No. 20). Defendant did not respond. Plaintiff moved for a debtor's examination. (Filing No. 21). Defendant did not respond.

The court ordered Defendant to respond to Plaintiff's post-judgment discovery by no later than June 26, 2018. (Filing No. 22). Defendant did not comply. Plaintiff moved for sanctions on June 27, 2018. (Filing No. 23).

On July 3, 2018, the court ordered Defendant to respond to Plaintiff's post-judgment discovery requests, under oath, on or before July 16, 2018. (Filing Nos.

25 & 27). Defendant failed to comply. The court further ordered Defendant to appear at a debtor's examination on July 24, 2018. (Filing No. 25).

On July 20, 2018, four days before the debtor's examination, Defendant finally responded to the case by asking the court to set aside the default judgment (Filing No. 30), and to cancel the debtor's examination. (Filing No. 31). Defendant's counsel explains that since 2015, Defendant has defended 40 lawsuits filed by Plaintiff's counsel in 23 states.

While I question whether Defendant's explanation excuses 10 months of ignoring this lawsuit and the court's orders, a debtor's examination has no purpose absent a judgment, and Defendant's challenge to the default judgment will not be resolved before July 24, 2018.

Accordingly,

IT IS ORDERED:

- 1) The Motion to Continue Judgment Debtor Examination of Anthony Guadagna, (Filing No. 31), is granted.
- 2) The debtor's examination is continued pending further order of the court.

July 21, 2018.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge